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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,028	01/02/2001	Brian J. Williams	M-7801 US	9691

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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT PAPER NUMBER

3643

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/753,028	Applicant(s) WILLIAMS, BRIAN J.	
	Examiner Thomas Price	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6, 8, 9 and 12-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Zarski '056.

Zarski teaches a carriable pet feeding service device which is structurally similar to the Applicant's claimed portable pet-feeding container. More specifically, the apparatus of Zarski includes reservoirs 24 and 26, removable lids 50 and 52, skirts 14 and 16, including a structure 64' and a handle 28. The structure 64' is considered to be a nodule with a hole. Regarding claim 4, the skirt includes a flat base portion. See Figure 5. As for claim 6, the hinge structure acts as a movement preventing structure. In regards to claim 8, groove 72 is positioned in the skirt. The skirt is formed into the side of the individual containers, and as a result, is considered to be integral.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zarski '056.

Zarski does not teach the use of a rubber material positioned on the bottom surface of the skirt nor the use of a threaded lid structure. Regarding the claims, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the structure of Zarski with a movement preventing material and a threaded lid instead of a snap-type connection, because it reduces excessive movement of the structure when being used by an animal and threaded connections are considered to be structurally equivalent to the lid-reservoir connection of Zarski.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zarski '056 in view of Magnant et al '839.

Zarski does not teach a flat base having a storage compartment. Magnant teaches a container having a storage compartment positioned within the flat base. Regarding claim 5, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the flat base of Zarski with a storage compartment, in view of the teachings of Magnant, in order to carry additional amounts of food, separate from the reservoir or other types of items.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zarski '056 in view of Edwards et al '881.

Zarski does not teach the handle having a storage tube. Edwards et al teach a handle having an integral storage tube positioned therein. Regarding claim 3, it would have been obvious to a person of ordinary skill in the art at the time the invention was made

to provide a handle of Zarski with a storage tube, in view of the teachings of Edwards et al, in order to carry additional items such as disposal bags.

Response to Arguments

With regard to the Applicant's argument concerning the integrally connection of the skirt, the skirt of Zarski is considered to be integral because it only has to be formed as a unit with another part, which it is. Further, the skirt is considered to be adjacent the open top, and therefore formed in the skirt.

Applicant's arguments filed 6-17-2003 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Mon, Tues, Thurs & Fri 6:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Thomas Price
Primary Examiner GAU: 3643

rtp
August 25, 2003